

H2Teesside Project

Planning Inspectorate Reference: EN070009

Land within the boroughs of Redcar and Cleveland and Stockton-on-Tees, Teesside and within the borough of Hartlepool, County Durham

The H2Teesside Order

Document Reference: 9.5: Statement of Common Ground between H2 Teesside Limited and the Marine Management Organisation

The Planning Act 2008



Applicant: H2 Teesside Ltd

Date: November 2024

The Planning Act 2008
**The Infrastructure Planning (Applications:
Prescribed Forms and Procedure)
Regulations 2009**
The H2Teesside Order 202[]

**Statement of Common Ground between H2 Teesside Limited and the
Marine Management Organisation**

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STATEMENT OF COMMON GROUND

This Statement of Common Ground has been prepared and agreed by (1) H2 Teesside Ltd. and (2) the Marine Management Organisation

Signed.....
[Name]
[Position]
on behalf of H2 Teesside Ltd.
Date:

Signed.....
[Name]
[Position]
on behalf of the Marine Management Organisation
Date:

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1.0 INTRODUCTION AND PURPOSE

1.1 Introduction

1.1.1 This Statement of Common Ground ('SoCG') relates to an application (the 'Application') made by H2 Teesside Limited (the 'Applicant'), to the Secretary of State for Energy Security and Net Zero for a Development Consent Order ('DCO') under Section 37 of the Planning Act 2008 (the 'PA 2008') for the H2Teesside Project.

1.1.2 The Application has been accepted for examination. The Examination commenced on 29 August 2024.

1.1.3 The Examining Authority's ('ExA') Rule 8 letter (Annex B) dated 30 August 2024 confirms that the Applicant should prepare a SoCG with the Marine Management Organisation ('MMO') in respect of the Proposed Development.

1.2 Parties to the SoCG

The Applicant and the Proposed Development

1.2.1 The Applicant is a private limited company aiming to develop and operate the H2Teesside project, which is an approximately 1.2-Gigawatt Thermal ('GWth') Carbon Capture & Storage ('CCS') enabled Hydrogen Production Facility (the 'Production Facility') and associated connections ('the Proposed Development') on land in Redcar and Cleveland, Stockton-on-Tees, and Hartlepool (hereafter referred to as the 'Proposed Development Site'). The Proposed Development will support the decarbonisation of UK-produced natural gas in Teesside for use in industrial applications, thus helping to achieve national targets in relation to net zero. It will also be a key contributor to restoring manufacturing jobs in the Tees Valley.

1.2.2 The Proposed Development Site covers an area of approximately 508 hectares ('ha') and is located primarily within the administrative boundaries of Redcar and Cleveland Borough Council (RCBC) and Stockton-on-Tees Borough Council ('STBC'). The Hydrogen Pipeline Corridor (refer to Figure 4-4 of the ES [APP-087]) extends further north-west to also include land within the administrative boundary of Hartlepool Borough Council ('HBC').

1.2.3 The Hydrogen Production Facility will be located at the Main Site within the Teesworks development site, as shown in Figure 4-1 of the ES [APP-084].

The Role of the MMO

1.2.4 The Marine Management Organisation (MMO) was established by the Marine and Coastal Access Act 2009 (MCAA 2009) to contribute to sustainable development in the marine area and promote clean, healthy, safe, productive and biologically diverse oceans and seas. The MMO are responsible for licencing construction works, deposits and removals in English inshore and offshore waters. In the case of NSIPs, the Planning Act 2008 (the 2008 Act) enables DCOs for projects which affect

the marine environment to include provisions which deem marine licences. As a prescribed consultee under the 2008 Act, the MMO advises developers during pre-application on those aspects of a project that may have an impact on the marine area or those who use it. In addition to considering the impacts of any construction, deposit or removal within the marine area, this also includes assessing any risks to human health, other legitimate uses of the sea and any potential impacts on the marine environment from terrestrial works.

1.2.5 The MMO is an executive non-departmental public body sponsored by the Department for Environment, Food and Rural Affairs (DEFRA) whose purpose is to protect and enhance the UK marine environment and support economic growth by enabling sustainable marine development. The MMO is an interested party for the examination of DCO applications for Nationally Significant Infrastructure Projects in the marine area.

1.2.6 In more general terms the MMO is responsible for;

- managing and monitoring fishing fleet sizes and quotas for catches;
- ensuring compliance with fisheries regulations, such as fishing vessel licences, time at sea and quotas for fish and seafood;
- managing funding programmes for fisheries activities;
- planning and licensing for marine construction, deposits and dredging that may have an environmental, economic or social impact;
- making marine nature conservation byelaws;
- dealing with marine pollution emergencies, including oil spills;
- helping to prevent illegal, unregulated and unreported fishing worldwide; and
- producing marine plans to include all marine activities, including those we don't directly regulate.

1.3 The Purpose and Structure of this Document

1.3.1 The purpose and possible content of SoCGs is set out in paragraphs 58 to 65 of the Ministry of Housing, Communities and Local Government guidance entitled 'Planning Act 2008: examination of applications for development consent' (April 2024). Paragraph 58 of that guidance explains the basic function of SoCGs as follows:

"A statement of common ground is a written statement prepared jointly by the applicant and another party or parties, setting out any matters on which they agree. As well as identifying matters which are not in real dispute, it is also useful if a statement identifies those areas where agreement has not been reached. The statement should include references to show where those matters are dealt with in the written representations or other documentary evidence."

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- 1.3.2 SoCGs are therefore a useful and established means of ensuring that the evidence at the DCO examination phase focuses on the material differences between the main parties, and so aim to help facilitate a more efficient examination process.
- 1.3.3 The purpose of this SoCG is therefore to summarise the agreements reached between the parties on matters relevant to the Examination of the Application and to assist the ExA. It also explains the matters which remain unresolved at the time of writing, but which both parties are working positively toward resolving. As such, it is expected that further iterations of the SoCG will be submitted to the ExA throughout the Examination and prior to the making of any DCO for the Proposed Development.
- 1.3.4 The SoCG has been prepared with regard to the above guidance and is structured as follows:
- Section 2 – sets out the engagement and related discussions held between the parties.
 - Section 3 – sets out the matters discussed and agreed to date.
 - Section 4 – sets out the matters that are under discussion and to be agreed and the proposed way forward, where relevant.
 - Section 5 – sets out the matters, if any, where there is disagreement.

2.0 ENGAGEMENT WITH THE MARINE MANAGEMENT ORGANISATION

2.1 Summary of Engagement

2.1.1 A summary of the key engagement that has taken place between the Applicant and the MMO is detailed in **Table 2.1** below.

Table 2.1: Engagement between the Applicant and the MMO

DATE	FORM OF ENGAGEMENT	DOCUMENT REF. (IF ANY)	DETAILS
14 September 2023	First Consultation (statutory consultation) in accordance with Section 42 of the PA 2008.	See Consultation Report [APP-030]	<p>The Applicant issued a Section 42 letter to the MMO on 14 September 2023 consulting it on the Proposed Development.</p> <p>The MMO provided a range of technical feedback to help inform the DCO Application. Key topics raised in the Statutory Consultation response included:</p> <ul style="list-style-type: none"> • Discussion on potential licensing requirements. • Notification of the requirement of a Marine Policy Assessment.
13 December 2023	Second Consultation (statutory and non-statutory) in accordance with Section 42 of the PA 2008.	See Consultation Report [APP-030]	<p>The Applicant issued a Section 42 letter to the MMO on 13 December 2023 consulting it on a number of changes to the Proposed Development as a result of further design development and technical work undertaken and also responses received to the First Consultation.</p> <p>The MMO provided a range of technical feedback to help inform the DCO Application. Key topics raised in the Statutory Consultation response included:</p>

DATE	FORM OF ENGAGEMENT	DOCUMENT REF. (IF ANY)	DETAILS
			<ul style="list-style-type: none"> • Discussion on potential licensing requirements. • Highlighting relevant legislation. • Notification of the requirement of a Marine Policy Assessment.
21 August 2024	Virtual Technical Meeting	n/a	This meeting was arranged to discuss Examination programme and actions, collaboration going forward and specific detail on MMO Relevant Representations regarding the water and marine environments.
4 September 2024	Consultation on proposed changes to the DCO Application.	n/a	A letter was issued to the MMO on 4 September 2024 consulting them on a number of proposed changes to the DCO Application.
Deadline 1 – 17 September 2024	Statement of Common Ground	n/a	The Marine Management Organisation and the Applicant engaged in discussions to agree the contents of this document, submitted into Examination at Deadline 1 [REP1-016].
Deadline 4 – 20 November 2024	Statement of Common Ground	n/a	The Marine Management Organisation and the Applicant engaged in discussions to agree the contents of this document, updated and submitted into Examination at Deadline 4.

3.0 MATTERS AGREED

3.1.1 Table 3.1 below sets out the matters agreed between the parties.

Table 3.1: Matters Agreed between the Applicant and the MMO

MATTER AGREED	AGREED POSITION
Details of trenchless crossing trial pits	It is agreed that the proposed locations of entry and exit pits for the two trenchless crossings are above MHWS.

4.0 MATTERS UNDER DISCUSSION

4.1.1 This section sets out the matters under discussion between the parties and the proposed way forward. **Table 4.1** provides a summary of the issues raised between the parties.

Table 4.1: Summary of Matters under Discussion between the Applicant and the MMO

SOCG ID	MATTER	APPLICANT POSITION	MMO POSITION
1.	MMO discussing the use of Article 35 'Bored Tunnels' exemption within The Marine Licensing (Exempted Activities) Order 2011.	<p>The Applicant will be engaging with the MMO to seek to reach an agreed position on this.</p> <p>For clarity, as outlined in Section 5.3 of Chapter 5: Construction Programme and Management of the ES [APP-057] the proposed trenchless techniques will be installed at a minimum depth of 25m below the Tees river bed and Greatham Creek at the deepest point of the crossing and a maximum depth of 60m. The launch and reception pits for the proposed trenchless crossings are above MHWS and any works will be controlled through the Construction Environmental Management Plan (CEMP) to be prepared by the contractor in accordance with the Framework CEMP [APP-043]. Through these measures, the Applicant considers that Condition 2 of the exemption will be met.</p>	<p>MMO notes that the design work for all crossings is ongoing, and that the applicant considers the activities presented within the DCO to not require a Marine Licence.</p> <p>MMO notes that the Applicant aspires to use Article 35 'Bored Tunnels' exemption within The Marine Licensing (Exempted Activities) Order 2011. The MMO stresses that this exemption is subject to conditions, most importantly Condition 2. The conclusion of which can only be drawn during the Examination process.</p> <p>MMO states that should any of the conditions above not be met, then the exemption no longer applies, and a marine licence (or DML) would be required for this activity.</p>

SOCG ID	MATTER	APPLICANT POSITION	MMO POSITION
		<p>The Applicant is content to fulfil Condition 2 of the exemption and commits to notifying the licensing authority in advance of the works being undertaken in each case.</p> <p>D4 update: The Applicant is awaiting feedback from the MMO on this matter.</p>	<p>D4 update: The MMO are awaiting Deadline 4 submissions before reporting an updated position with regards to impacts to habitats and species.</p>
2.	<p>MMO queries whether the risk of Bentonite Breakout is assessed within the ES.</p>	<p>The Applicant considers that it has proposed a sufficient range of mitigation measures to reduce risk of hydraulic fracture (and through this bentonite breakout), set out in Tables 7-2 and 7-5 of the Framework Construction Environmental Management Plan [APP-043], including the need for a Hydraulic Fracture Risk Assessment. Final versions of this plan, developed in accordance with this Framework, are required to be produced pre-construction, as secured by Requirement 15 of the draft DCO [APP-027], and construction of the Proposed Development is required by the DCO to be carried out with the full plans. As such, an Outline Marine and Intertidal Pollution Contingency Plan or Outline Bentonite Management Plan is not required.</p>	<p>MMO queries whether the risk of Bentonite Breakout has been assessed within the ES and would welcome an Outline Marine and Intertidal Pollution Contingency Plan and an Outline Bentonite Management Plan for review (MMO RR3).</p> <p>D4 update: The MMO are awaiting Deadline 4 submissions before reporting an updated position on this matter.</p>

SOCG ID	MATTER	APPLICANT POSITION	MMO POSITION
		<p>Monitoring of water bodies during construction works will also be undertaken, pursuant to the requirements of the draft Outline Water Management Plan [APP-045], which is also required to be developed into a full plan, and construction carried out in accordance with it, by DCO Requirement 15.</p> <p>These measures have been accounted for in ES Chapter 9: Surface Water, Flood Risk and Water Resources [APP-061] which discusses bentonite management and the mitigation measures for minimising risk of hydraulic fracture. The assessment concluded that with these mitigation measures in place, no significant adverse impact on water quality of the Tees water body or Greatham Creek resulting from installation of the trenchless crossings is predicted and that with the controls identified above the risk of bentonite breakout is minimal.</p> <p>D4 update: The Applicant awaits feedback from the MMO on this matter.</p>	

5.0 MATTERS NOT AGREED

5.1.1 Table 5.1 provides a summary of the matters not agreed between the parties.

Table 5.1: Summary of Matters Not Agreed

SOCG ID	MATTER	THE APPLICANT POSITION	MMO POSITION